

House File 647

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1 2
1 3 AN ACT
1 4 RELATING TO INSURANCE, INCLUDING VARIOUS FILING AND
1 5 INFORMATION PRIVACY REQUIREMENTS THROUGHOUT THE INSURANCE
1 6 CODE, CALCULATION OF ASSESSMENTS BY THE IOWA INDIVIDUAL
1 7 HEALTH BENEFIT REINSURANCE ASSOCIATION, PAYMENT OF CERTAIN
1 8 INSURANCE FEES, CERTAIN SELF-FUNDED INSURANCE PLANS BY SCHOOL
1 9 CORPORATIONS OR POLITICAL SUBDIVISIONS, DESIGNATION OF THE
1 10 COMMISSIONER OF INSURANCE AS PROCESS AGENT FOR VARIOUS
1 11 ENTITIES CONDUCTING INSURANCE BUSINESS IN THIS STATE,
1 12 NOTIFICATION PROVISIONS RELATING TO THE EFFECTIVE DATE OF
1 13 CANCELLATION OF INSURANCE, BENEFICIAL STOCK OWNERSHIP
1 14 FILINGS, FUNDING AGREEMENTS, CREATING AN INSURABLE INTEREST
1 15 IN ACTIVE OR RETIRED EMPLOYEE LIVES FOR THE BENEFIT OF AN
1 16 EMPLOYER, PROVIDING FOR AN INTERSTATE INSURANCE PRODUCT REGU=
1 17 LATION COMPACT, AND PROVIDING FOR RETROACTIVE APPLICABILITY
1 18 AND AN EFFECTIVE DATE.

1 19
1 20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 21
1 22 DIVISION I
1 23 Section 1. Section 29A.43, Code 2003, is amended to read
1 24 as follows:
1 25 29A.43 DISCRIMINATION PROHIBITED == LEAVE OF ABSENCE ==
1 26 CONTINUATION OF HEALTH COVERAGE.

1 27 1. A person shall not discriminate against any officer or
1 28 enlisted person of the national guard or organized reserves of
1 29 the armed forces of the United States because of that
1 30 membership. An employer, or agent of an employer, shall not
1 31 discharge a person from employment because of being an officer
1 32 or enlisted person of the military forces of the state, or
1 33 hinder or prevent the officer or enlisted person from
1 34 performing any military service the person is called upon to
1 35 perform by proper authority. A member of the national guard
2 1 or organized reserves of the armed forces of the United States
2 2 ordered to temporary duty, as defined in section 29A.1,
2 3 subsection 1, 3, or 11, for any purpose is entitled to a leave
2 4 of absence during the period of the duty or service, from the
2 5 member's private employment, other than employment of a
2 6 temporary nature, and upon completion of the duty or service
2 7 the employer shall restore the person to the position held
2 8 prior to the leave of absence, or employ the person in a
2 9 similar position. However, the person shall give evidence to
2 10 the employer of satisfactory completion of the training or
2 11 duty, and that the person is still qualified to perform the
2 12 duties of the position. The period of absence shall be
2 13 construed as an absence with leave, and shall in no way affect
2 14 the employee's rights to vacation, sick leave, bonus, or other
2 15 employment benefits relating to the employee's particular
2 16 employment. A person violating a provision of this section is
2 17 guilty of a simple misdemeanor.

2 18 2. An officer or enlisted person of the national guard or
2 19 organized reserves of the armed forces of the United States
2 20 who is insured as a dependent under a group policy for
2 21 accident or health insurance as a full-time student less than
2 22 twenty-five years of age, whose coverage under the group
2 23 policy would otherwise terminate while the officer or enlisted
2 24 person was on a leave of absence during a period of temporary
2 25 duty or service, as defined for members of the national guard
2 26 in section 29A.1, subsection 1, 3, or 11, or as a member of
2 27 the organized reserves called to active duty from a reserve
2 28 component status, shall be considered to have been
2 29 continuously insured under the group policy for the purpose of
2 30 returning to the insured dependent status as a full-time
2 31 student who is less than twenty-five years of age. This
2 32 subsection does not apply to coverage of an injury suffered or
2 33 a disease contracted by a member of the national guard or
2 34 organized reserves of the armed forces of the United States in
2 35 the line of duty.

3 1 Sec. 2. Section 505.8, subsection 6, Code 2003, is amended
3 2 to read as follows:
3 3 6. a. Notwithstanding chapter 22, the commissioner shall
3 4 keep confidential both information obtained in the course of
3 5 an investigation and information submitted to the insurance

3 6 division pursuant to chapters 514J and 515D.

3 7 b. The commissioner shall adopt rules protecting the
3 8 privacy of information held by an insurer or an agent
3 9 consistent with the federal Gramm-Leach-Bliley Act, Pub. L.
3 10 No. 106-102.

3 11 c. However, notwithstanding paragraphs "a" and "b", if the
3 12 commissioner determines that it is necessary or appropriate in
3 13 the public interest or for the protection of the public, the
3 14 commissioner may share information with other regulatory
3 15 authorities or governmental agencies or may publish
3 16 information concerning a violation of this chapter or a rule
3 17 or order under this chapter. Such information may be redacted
3 18 so that personally identifiable information is not made
3 19 available.

3 20 d. The commissioner may adopt rules protecting the privacy
3 21 of information submitted to the insurance division consistent
3 22 with this section.

3 23 Sec. 3. NEW SECTION. 505.24 SALE OF POLICY TERM
3 24 INFORMATION BY CONSUMER REPORTING AGENCY.

3 25 1. For purposes of this section, unless the context
3 26 otherwise requires, "consumer reporting agency" means any
3 27 person that for monetary fees, dues, or on a cooperative
3 28 nonprofit basis regularly engages in whole or in part in the
3 29 practice of assembling or evaluating consumer credit
3 30 information or other information on consumers for the purpose
3 31 of furnishing consumer reports to third parties and that uses
3 32 any means or facility of interstate commerce for the purpose
3 33 of preparing or furnishing consumer reports.

3 34 2. A consumer reporting agency shall not provide or sell
3 35 data or lists that include any information that in whole or in
4 1 part was submitted in conjunction with an insurance inquiry
4 2 about a consumer's credit information or a request for a
4 3 credit report or insurance score. Information submitted in
4 4 conjunction with an insurance inquiry about a consumer
4 5 includes, but is not limited to, the expiration dates of an
4 6 insurance policy or any other information that may identify
4 7 time periods during which a consumer's insurance may expire
4 8 and the terms and conditions of the consumer's insurance
4 9 coverage.

4 10 3. The restrictions provided in subsection 2 do not apply
4 11 to data or lists supplied by a consumer reporting agency to an
4 12 insurance producer from whom information was received, the
4 13 insurer on whose behalf such producer acted, or such insurer's
4 14 affiliates or holding companies.

4 15 4. This section shall not be construed to restrict any
4 16 insurer from being able to obtain a claims history report or a
4 17 motor vehicle report.

4 18 Sec. 4. Section 507A.4, subsection 9, Code 2003, is
4 19 amended by adding the following new paragraph:

4 20 NEW PARAGRAPH. e. When not otherwise provided, a foreign
4 21 or domestic multiple employee welfare arrangement doing
4 22 business in this state shall pay to the commissioner of
4 23 insurance the fees as required in section 511.24.

4 24 Sec. 5. Section 507B.3, Code 2003, is amended to read as
4 25 follows:

4 26 507B.3 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR
4 27 PRACTICES PROHIBITED.

4 28 1. A person shall not engage in this state in any trade
4 29 practice which is defined in this chapter as, or determined
4 30 pursuant to section 507B.6 to be, an unfair method of
4 31 competition, or an unfair or deceptive act or practice in the
4 32 business of insurance. The issuance of a qualified charitable
4 33 gift annuity as provided in chapter 508F does not constitute a
4 34 trade practice in violation of this chapter.

4 35 2. The commissioner shall have power to examine and
5 1 investigate into the affairs of every person engaged in the
5 2 business of insurance in this state in order to determine
5 3 whether such person has been or is engaged in any unfair
5 4 method of competition or in any unfair or deceptive act or
5 5 practice prohibited by this section. The commissioner shall
5 6 keep confidential the information submitted to the insurance
5 7 division, or obtained by the insurance division in the course
5 8 of an investigation pursuant to section 505.8, subsection 6.

5 9 Sec. 6. Section 508.11, unnumbered paragraph 1, Code 2003,
5 10 is amended to read as follows:

5 11 The president or vice president and secretary or actuary,
5 12 or a majority of the directors of each company organized under
5 13 this chapter, shall annually, by on or before the first day of
5 14 March, prepare under oath and file in the office of the
5 15 commissioner of insurance or a depository designated by the
5 16 commissioner a statement of its affairs for the year

5 17 terminating on the thirty-first day of December preceding,
5 18 showing:
5 19 Sec. 7. Section 508.31A, Code 2003, is amended to read as
5 20 follows:

5 21 508.31A FUNDING AGREEMENTS.

5 22 1. A life insurance company organized under this chapter
5 23 may issue funding agreements. The issuance of a funding
5 24 agreement under this section is deemed to be doing insurance
5 25 business. For purposes of this section, "funding agreement"
5 26 means an agreement for an insurer to accept and accumulate
5 27 funds and to make one or more payments at future dates in
5 28 amounts that are not based on mortality or morbidity
5 29 contingencies of the person to whom the funding agreement is
5 30 issued. A funding agreement does not constitute life
5 31 insurance, an annuity, or other insurance authorized by
5 32 section 508.29, and does not constitute a security as defined
5 33 in section 502.102.

5 34 2. a. Funding agreements may be issued to the following:

5 35 (1) A person authorized by a state or foreign country to
6 1 engage in an insurance business or a subsidiary of such
6 2 business.

6 3 (2) A person for the purpose of funding any of the
6 4 following:

6 5 (a) Benefits under an employee benefit plan as defined in
6 6 the federal Employee Retirement Income Security Act of 1974,
6 7 29 U.S.C. } 1001 et seq., maintained in the United States or
6 8 in a foreign country.

6 9 (b) Activities of an organization exempt from taxation
6 10 pursuant to section 501c of the Internal Revenue Code, or any
6 11 similar organization in any foreign country.

6 12 (c) A program of the United States government, another
6 13 state government or political subdivision of such state, or of
6 14 a foreign country, or any agency or instrumentality of any
6 15 such government, political subdivision, or foreign country.

6 16 (d) An agreement providing for periodic payments in
6 17 satisfaction of a claim.

6 18 (e) A program of an institution which has assets in excess
6 19 of twenty-five million dollars.

6 20 (3) A person other than a natural person that has assets
6 21 of at least twenty-five million dollars.

6 22 (4) A person other than a natural person for the purpose
6 23 of providing collateral security for securities issued by such
6 24 person and registered with the federal securities and exchange
6 25 commission.

6 26 b. A funding agreement issued pursuant to subparagraph
6 27 (1), (2), or (3) shall be for a total amount of not less than
6 28 one million dollars.

6 29 c. An amount under a funding agreement shall not be
6 30 guaranteed or credited except upon reasonable assumptions as
6 31 to investment income and expenses and on a basis equitable to
6 32 all holders of funding agreements of a given class. Such
6 33 funding agreements shall not provide for payments to ~~or by~~ the
6 34 insurer based on mortality or morbidity contingencies.

6 35 d. Amounts paid to the insurer pursuant to a funding
7 1 agreement, and proceeds applied under optional modes of
7 2 settlement, may be allocated by the insurer to one or more
7 3 separate accounts pursuant to section 508A.1.

7 4 3. A funding agreement is a class 2 claim under section
7 5 507C.42, subsection 2.

7 6 4. The commissioner may adopt rules to implement funding
7 7 agreements.

7 8 Sec. 8. Section 508.38, subsection 2, unnumbered paragraph
7 9 1, Code 2003, is amended by striking the unnumbered paragraph
7 10 and inserting in lieu thereof the following:

7 11 In the case of contracts issued on or after the operative
7 12 date of this section as defined in subsection 11, no contract
7 13 of annuity, except as stated in subsection 1, shall be
7 14 delivered or issued for delivery in this state unless it
7 15 contains in substance the following provisions, or
7 16 corresponding provisions that in the opinion of the
7 17 commissioner are at least as favorable to the contract holder,
7 18 upon cessation of payment of considerations under the
7 19 contract:

7 20 Sec. 9. Section 508.38, subsection 2, paragraphs a and b,
7 21 Code 2003, are amended by striking the paragraphs and
7 22 inserting in lieu thereof the following:

7 23 a. That upon cessation of payment of considerations under
7 24 a contract or upon the written request of the contract owner,
7 25 the company shall grant a paid-up annuity benefit on a plan
7 26 stipulated in the contract of such value as is specified in
7 27 subsections 4, 5, 6, 7, and 9.

7 28 b. If a contract provides for a lump sum settlement at
7 29 maturity, or at any other time, that upon surrender of the
7 30 contract at or prior to the commencement of any annuity
7 31 payments, the company shall pay in lieu of a paid-up annuity
7 32 benefit a cash surrender benefit of such amount as is
7 33 specified in subsections 4, 5, 7, and 9. The company may
7 34 reserve the right to defer the payment of such cash surrender
7 35 benefit for a period not to exceed six months after demand
8 1 therefore with surrender of the contract after making written
8 2 request and receiving written approval of the commissioner.
8 3 The request shall address the necessity and equitability to
8 4 all policyholders of the deferral.

8 5 Sec. 10. Section 508.38, subsections 3 and 11, Code 2003,
8 6 are amended by striking the subsections and inserting in lieu
8 7 thereof the following:

8 8 3. The minimum values as specified in subsections 4, 5, 6,
8 9 7, and 9 of any paid-up annuity, cash surrender, or death
8 10 benefits available under an annuity contract shall be based
8 11 upon minimum nonforfeiture amounts as defined in this section.

8 12 a. The minimum nonforfeiture amount at any time at or
8 13 prior to the commencement of any annuity payments shall be
8 14 equal to an accumulation up to such time at rates of interest
8 15 as indicated in paragraph "b" of the net considerations (as
8 16 hereinafter defined) paid prior to such time, decreased by the
8 17 sum of all of the following:

8 18 (1) Any prior withdrawals from or partial surrenders of
8 19 the contract accumulated at rates of interest as indicated in
8 20 paragraph "b".

8 21 (2) An annual contract charge of fifty dollars,
8 22 accumulated at rates of interest as indicated in paragraph
8 23 "b".

8 24 (3) The amount of any indebtedness to the company on the
8 25 contract, including interest due and accrued.

8 26 The net considerations for a given contract year used to
8 27 define the minimum nonforfeiture amount shall be an amount
8 28 equal to eighty-seven and one-half percent of the gross
8 29 considerations credited to the contract during the contract
8 30 year.

8 31 b. The interest rate used in determining minimum
8 32 nonforfeiture amounts shall be an annual rate of interest
8 33 determined as the lesser of three percent per annum and all of
8 34 the following, which shall be specified in the contract if the
8 35 interest rate will be reset:

9 1 (1) The five-year constant maturity treasury rate reported
9 2 by the federal reserve as of a date, or average over a period,
9 3 rounded to the nearest one-twentieth of one percent, specified
9 4 in the contract no longer than fifteen months prior to the
9 5 contract issue date or redetermination date under subparagraph
9 6 (4).

9 7 (2) The result of subparagraph (1) shall be reduced by one
9 8 hundred twenty-five basis points.

9 9 (3) The resulting interest guarantee shall not be less
9 10 than one percent.

9 11 (4) The interest rate shall apply for an initial period
9 12 and may be redetermined for additional periods. The
9 13 redetermination date, basis, and period, if any, shall be
9 14 stated in the contract. The basis is the date or average over
9 15 a specified period that produces the value of the five-year
9 16 constant maturity treasury rate to be used at each
9 17 redetermination date.

9 18 During the period or term that a contract provides
9 19 substantive participation in an equity indexed benefit, it may
9 20 increase the reduction described in subparagraph (2), by up to
9 21 an additional one hundred basis points to reflect the value of
9 22 the equity index benefit. The present value at the contract
9 23 issue date and at each redetermination date thereafter of the
9 24 additional reduction shall not exceed the market value of the
9 25 benefit. The commissioner may require a demonstration that
9 26 the present value of the reduction does not exceed the market
9 27 value of the benefit. Lacking such a demonstration that is
9 28 acceptable to the commissioner, the commissioner may disallow
9 29 or limit the additional reduction.

9 30 The commissioner may adopt rules to implement the
9 31 provisions of subparagraph (4), and to provide for further
9 32 adjustments to the calculation of minimum nonforfeiture
9 33 amounts for contracts that provide substantive participation
9 34 in an equity index benefit and for other contracts that the
9 35 commissioner determines adjustments are justified.

10 1 11. After the effective date of this Act, a company may
10 2 elect either to apply the provisions of this section as it
10 3 existed prior to the effective date of this Act or to apply

10 4 the provisions of this section as enacted by this Act to
10 5 annuity contracts on a contract form-by-form basis before the
10 6 second anniversary of the effective date of this Act. In all
10 7 other instances, this section shall become operative with
10 8 respect to annuity contracts issued by the company two years
10 9 after the effective date of this Act.

10 10 Sec. 11. Section 509.19, subsection 1, paragraphs a and c,
10 11 Code 2003, are amended to read as follows:

10 12 a. A person issuing a policy or contract providing group
10 13 health benefit coverages to a group of fifty-one or more
10 14 eligible employees as defined in chapter 513B shall provide to
10 15 the policyholder, contract holder, or sponsor of the group
10 16 health benefit plan, upon request, annually, but not more than
10 17 three months prior to the policy renewal date, the total
10 18 amount of actual claims identified as paid or incurred and
10 19 paid, and the total amount of premiums by line of coverage.
10 20 If premiums are not billed for each line of coverage, it is
10 21 not necessary to artificially separate premiums for each line
10 22 of coverage and will be acceptable to supply total premiums
10 23 for the period.

10 24 c. The information required by paragraph "a" shall be
10 25 provided by the carrier ~~separately for the current policy~~
~~10 26 year-to-date and for the prior policy year two separate years,~~
10 27 ~~either policy years or rolling twelve-month periods.~~

10 28 Sec. 12. Section 509A.15, subsection 4, Code 2003, is
10 29 amended by striking the subsection and inserting in lieu
10 30 thereof the following:

10 31 4. One or more political subdivisions of the state or one
10 32 or more school corporations maintaining self-insured plans
10 33 with yearly claims that do not exceed one percent of each
10 34 entity's general fund budget shall be exempt from the
10 35 requirements of this section where the plan insures employees
11 1 for all or part of a deductible, coinsurance payments, drug
11 2 costs, short-term disability benefits, vision benefits, or
11 3 dental benefits.

11 4 The yearly claim amount shall be determined annually on the
11 5 policy renewal date, or an alternative date established by
11 6 rule, by a plan administrator or political subdivision or
11 7 school corporation employee to be designated by the plan
11 8 administrator. The exemption shall not apply for the year
11 9 following a year in which yearly claims are determined to
11 10 exceed one percent of the political subdivision's or school
11 11 corporation's general fund budget.

11 12 Sec. 13. Section 510A.2, subsections 3, 4, and 5, Code
11 13 2003, are amended to read as follows:

11 14 3. "Controlled insurer" means a licensed insurer ~~which~~
11 15 that is controlled, directly or indirectly, by ~~a~~ an insurance
11 16 producer.

11 17 4. "Controlling producer" means ~~a~~ an insurance producer
11 18 who, directly or indirectly, controls an insurer.

11 19 5. "Independent casualty actuary" means a casualty actuary
11 20 who is a member of the American academy of actuaries and who
11 21 is not an employee, principal, the direct or indirect owner
11 22 of, affiliated with, or in any way controlled by the insurer
11 23 or insurance producer.

11 24 Sec. 14. Section 510A.2, Code 2003, is amended by adding
11 25 the following new subsection:

11 26 NEW SUBSECTION. 5A. "Insurance producer" means a person
11 27 required to be licensed under the laws of this state to sell,
11 28 solicit, or negotiate insurance.

11 29 Sec. 15. Section 510A.2, subsection 7, Code 2003, is
11 30 amended by striking the subsection.

11 31 Sec. 16. Section 510A.4, subsection 1, paragraph b,
11 32 subparagraph (2), Code 2003, is amended to read as follows:

11 33 (2) The controlled insurer, except for insurance business
11 34 written through a residual market facility, accepts insurance
11 35 business only from the controlling producer, a producer
12 1 controlled by the controlled insurer, or ~~a~~ an insurance
12 2 producer that is a subsidiary of the controlled insurer.

12 3 Sec. 17. Section 510A.4, subsection 2, paragraph g, Code
12 4 2003, is amended to read as follows:

12 5 g. The controlled insurer shall provide the controlling
12 6 producer with its underwriting standards, rules, and
12 7 procedures manuals setting forth the rates to be charged, and
12 8 the conditions for the acceptance or rejection of risks. The
12 9 controlling producer shall adhere to the standards, rules,
12 10 procedures, rates, and conditions. The standards, rules,
12 11 procedures, rates, and conditions shall be the same as those
12 12 applicable to comparable business placed with the controlled
12 13 insurer by ~~a~~ an insurance producer other than the controlling
12 14 producer.

12 15 Sec. 18. Section 510A.4, subsection 4, Code 2003, is
12 16 amended to read as follows:

12 17 4. REPORTING REQUIREMENTS.

12 18 a. In addition to any other required loss reserve
12 19 certification, the controlled insurer shall annually, on April
12 20 1 of each year, file with the commissioner an opinion of an
12 21 independent casualty actuary, or another independent loss
12 22 reserve specialist acceptable to the commissioner, reporting
12 23 loss ratios for each line of business written and attesting to
12 24 the adequacy of loss reserves established for losses incurred
12 25 and outstanding as of year-end on business placed by the
12 26 insurance producer, including incurred but not reported
12 27 losses.

12 28 b. The controlled insurer shall annually report to the
12 29 commissioner the amount of commissions paid to the insurance
12 30 producer, the percentage such amount represents of the net
12 31 premiums written, and comparable amounts and percentage paid
12 32 to noncontrolling producers for placements of the same kinds
12 33 of insurance.

12 34 Sec. 19. Section 510A.5, Code 2003, is amended to read as
12 35 follows:

13 1 510A.5 DISCLOSURE.

13 2 The insurance producer, prior to the effective date of the
13 3 policy, shall deliver written notice to the prospective
13 4 insured disclosing the relationship between the insurance
13 5 producer and the controlled insurer; except that, if the
13 6 business is placed through a subproducer who is not a
13 7 controlling producer, the controlling producer shall retain in
13 8 the producer's records a signed commitment from the
13 9 subproducer that the subproducer is aware of the relationship
13 10 between the insurer and the insurance producer and that the
13 11 subproducer has notified or will notify the insured.

13 12 Sec. 20. Section 511.8, subsection 20, Code 2003, is
13 13 amended by adding the following new unnumbered paragraph:

13 14 NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes
13 15 an equity interest in the Iowa fund of funds as defined in
13 16 section 15E.62.

13 17 Sec. 21. Section 511.27, Code 2003, is amended to read as
13 18 follows:

13 19 511.27 COMMISSIONER AS PROCESS AGENT.

13 20 Every life insurance company and association ~~organized~~
~~13 21 under the laws of another state or country~~ shall, before
13 22 receiving a certificate to do business in this state or any
13 23 renewal ~~thereof~~ of a certificate to do business in this state,
13 24 file in the office of the commissioner of insurance a power of
~~13 25 attorney and~~ an agreement in writing that ~~thereafter~~ service
13 26 of notice or process of any kind may be made on the
13 27 commissioner, ~~and when so made that~~ shall be as valid,
13 28 binding, and effective for all purposes as if served upon the
13 29 company according to the laws of this or any other state, and
13 30 waiving all claim or right of error ~~by reason of such~~
~~13 31 acknowledgment of service due to the filing of the power of~~
~~13 32 attorney and the agreement regarding service of notice or~~
~~13 33 process.~~

13 34 Sec. 22. NEW SECTION. 511.40 EMPLOYER == INSURABLE
13 35 INTEREST.

14 1 1. As used in this section, "employees" includes officers,
14 2 managers, and directors of an employer, and the shareholders,
14 3 partners, members, proprietors, or other owners of the
14 4 employer.

14 5 2. An employer and a trust established by the employer for
14 6 the benefit of the employer or for the benefit of the
14 7 employer's active or retired employees has an insurable
14 8 interest in each of the lives of the employer's active or
14 9 retired employees and may insure their lives on an individual
14 10 or group basis.

14 11 3. The amount of coverage on the lives of nonmanagement or
14 12 nonkey employees shall be reasonably related to the benefit
14 13 provided to the employees.

14 14 4. On and after July 1, 2003, an employer or trust shall
14 15 obtain the written consent of each employee being insured by
14 16 an employer and trust pursuant to this section before insuring
14 17 the employee's life. The consent shall include an
14 18 acknowledgment by the employee that the employer or trust may
14 19 maintain the life insurance after the employee is no longer
14 20 employed by the employer. An employer shall not retaliate in
14 21 any manner against an employee who refuses to consent.

14 22 Sec. 23. Section 512B.33, Code 2003, is amended to read as
14 23 follows:

14 24 512B.33 SERVICE OF PROCESS.

14 25 1. A ~~foreign or alien~~ society authorized to do business in

14 26 this state shall ~~appoint in writing file in the office of the~~
14 27 ~~commissioner to be its true and lawful a power of attorney~~
14 28 ~~upon whom all lawful and an agreement in writing that service~~
14 29 ~~of process in any action or proceeding against it shall be~~
14 30 ~~served, and shall agree in the written consent to process that~~
14 31 ~~any lawful process against it which is the society may be~~
14 32 ~~served on the commissioner and shall be of the same legal~~
14 33 ~~force and validity as if served upon the society, and that the~~
14 34 ~~authority shall continue in force so long as any liability~~
14 35 ~~remains outstanding in this state. Copies of the appointment~~
15 1 ~~power of attorney, certified by the commissioner, shall be~~
15 2 ~~deemed sufficient evidence of the appointment and shall be~~
15 3 ~~admitted in evidence with the same force and effect as the~~
15 4 ~~original may be admitted.~~

15 5 2. Service of process shall only be made upon the
15 6 commissioner, or if absent, upon the person in charge of the
15 7 commissioner's office. Service shall be made in ~~duplicate~~
15 8 ~~triplicate~~ and shall constitute sufficient service upon the
15 9 society. When legal process against a society is served upon
15 10 the commissioner, the commissioner shall ~~forthwith promptly~~
15 11 ~~forward one of the duplicate copies by registered mail,~~
15 12 ~~prepaid, directed to the secretary or corresponding officer of~~
15 13 ~~the society. Service shall not require a A society shall not~~
15 14 ~~be required to file its answer, pleading, or defense in less~~
15 15 ~~than thirty days from the date of mailing the copy of the~~
15 16 ~~service to a society. Legal process shall not be served upon~~
15 17 ~~a society except in the manner provided in this section.~~

15 18 Sec. 24. Section 513C.7, subsection 4, paragraph b, Code
15 19 2003, is amended to read as follows:

15 20 b. A carrier or an organized delivery system shall waive
15 21 any time period applicable to a preexisting condition
15 22 exclusion or limitation period with respect to particular
15 23 services in an individual health benefit plan for the period
15 24 of time an individual was previously covered by qualifying
15 25 previous coverage that provided benefits with respect to such
15 26 services, provided that the qualifying previous coverage was
15 27 continuous to a date not more than sixty=three days prior to
15 28 the effective date of the new coverage. For purposes of this
15 29 section, periods of coverage under medical assistance provided
15 30 pursuant to chapter 249A ~~or 514I~~, or Medicare coverage
15 31 provided pursuant to Title XVIII of the federal Social
15 32 Security Act shall not be counted with respect to the sixty=
15 33 three day requirement.

15 34 Sec. 25. Section 513C.10, subsection 1, paragraph a, Code
15 35 2003, is amended to read as follows:

16 1 a. All persons that provide health benefit plans in this
16 2 state including insurers providing accident and sickness
16 3 insurance under chapter 509, 514, or 514A, ~~whether on an~~
16 4 ~~individual or group basis~~; fraternal benefit societies
16 5 providing hospital, medical, or nursing benefits under chapter
16 6 512B; and health maintenance organizations, organized delivery
16 7 systems, and all other entities providing health insurance or
16 8 health benefits subject to state insurance regulation shall be
16 9 members of the association.

16 10 Sec. 26. Section 513C.10, subsection 6, Code 2003, is
16 11 amended to read as follows:

16 12 6. The assessable loss plus necessary operating expenses
16 13 for the association, plus any additional expenses as provided
16 14 by law, shall be assessed by the association to all members in
16 15 proportion to their respective shares of total health
16 16 insurance premiums or payments for subscriber contracts
16 17 received in Iowa during the second preceding calendar year, or
16 18 with paid losses in the year, coinciding with or ending during
16 19 the calendar year, or on any other equitable basis as provided
16 20 in the plan of operation. In sharing losses, the association
16 21 may abate or defer any part of the assessment of a member, if,
16 22 in the opinion of the board, payment of the assessment would
16 23 endanger the ability of the member to fulfill its contractual
16 24 obligations. The association may also provide for an initial
16 25 or interim assessment against the members of the association
16 26 to meet the operating expenses of the association until the
16 27 next calendar year is completed. For purposes of this
16 28 subsection, "total health insurance premiums" and "payments
16 29 for subscriber contracts" include, without limitation,

16 30 premiums or other amounts paid to or received by a member for
16 31 individual and group health plan care coverage provided under
16 32 any chapter of the Code or Acts, and "paid losses" includes,
16 33 without limitation, claims paid by a member operating on a
16 34 self-funded basis for individual and group health plan care
16 35 coverage provided under any chapter of the Code or Acts. For
17 1 purposes of calculating and conducting the assessment, the

17 2 association shall have the express authority to require
17 3 members to report on an annual basis each member's total
17 4 health insurance premiums and payments for subscriber
17 5 contracts and paid losses. A member is liable for its share
17 6 of the assessment calculated in accordance with this section
17 7 regardless of whether it participates in the individual
17 8 insurance market.

17 9 Sec. 27. NEW SECTION. 514.2A SERVICE OF PROCESS.
17 10 A nonprofit health service corporation authorized to do
17 11 business in this state shall file in the office of the
17 12 commissioner a power of attorney and an agreement in writing
17 13 that service of process in any action or proceeding against
17 14 the corporation may be served on the commissioner and shall be
17 15 of the same legal force and validity as if served upon the
17 16 corporation, and that the authority shall continue in force so
17 17 long as any liability remains outstanding in this state.
17 18 Copies of the power of attorney, certified by the
17 19 commissioner, shall be deemed sufficient evidence of the
17 20 appointment and shall be admitted in evidence with the same
17 21 force and effect as the original.

17 22 Sec. 28. Section 514B.3, subsection 10, Code 2003, is
17 23 amended to read as follows:

17 24 10. A power of attorney executed by any applicant ~~who is~~
~~17 25 not domiciled in this state~~ appointing the commissioner, the
17 26 commissioner's successors in office, and deputies ~~as the true~~
~~17 27 and lawful attorney of the applicant for this state upon whom~~
~~17 28 all lawful to receive~~ process in any legal action or
17 29 proceeding against the health maintenance organization on a
17 30 cause of action arising in this state ~~may be served.~~

17 31 Sec. 29. Section 514B.12, unnumbered paragraph 1, Code
17 32 2003, is amended to read as follows:

17 33 A health maintenance organization shall annually on or
17 34 before the first day of March file with the commissioner or a
17 35 depository designated by the commissioner a report verified by

18 1 at least two of its principal officers and covering the
18 2 preceding calendar year. The report shall be on forms
18 3 prescribed by the commissioner and shall include:

18 4 Sec. 30. Section 514B.33, Code 2003, is amended by adding
18 5 the following new subsection:

18 6 NEW SUBSECTION. 1A. When not otherwise provided, a
18 7 foreign or domestic limited service organization doing
18 8 business in this state shall pay the commissioner the fees as
18 9 required in section 511.24.

18 10 Sec. 31. Section 514J.7, subsection 8, Code 2003, is
18 11 amended to read as follows:

18 12 8. The confidentiality of any medical records submitted
18 13 shall be maintained pursuant to applicable state and federal
18 14 laws. Other than the sharing of information required by this
18 15 chapter and the rules adopted pursuant to this chapter, the
18 16 commissioner shall keep confidential the information obtained
18 17 in the external review process pursuant to section 505.8,
18 18 subsection 6.

18 19 Sec. 32. Section 514J.10, Code 2003, is amended to read as
18 20 follows:

18 21 514J.10 REPORTING.

~~18 22 Each carrier and organized delivery system shall file The~~
~~18 23 commissioner shall prepare~~ an annual report ~~with the~~
~~18 24 commissioner~~ containing all of the following:

- 18 25 1. The number of external reviews requested.
- 18 26 2. The number of the external reviews certified by the
18 27 commissioner.
- 18 28 3. The number of coverage decisions which were upheld by
18 29 an independent review entity.
- 18 30 The commissioner shall prepare ~~a~~ the report by January 31
18 31 of each year.

18 32 Sec. 33. Section 514J.13, Code 2003, is amended to read as
18 33 follows:

18 34 514J.13 EFFECT OF EXTERNAL REVIEW DECISION.

18 35 1. The review decision by the independent review entity
19 1 conducting the review is binding upon the carrier or organized
19 2 delivery system. The external review process shall not be
19 3 considered a contested case under chapter 17A, the Iowa
19 4 administrative procedure Act.

19 5 2. The enrollee or the enrollee's treating health care
19 6 provider acting on behalf of the enrollee may appeal the
19 7 review decision by the independent review entity conducting
19 8 the review by filing a petition for judicial review either in
19 9 Polk county district court or in the district court in the
19 10 county in which the enrollee resides. The petition for
19 11 judicial review must be filed within fifteen business days
19 12 after the issuance of the review decision. The petition shall

19 13 name the enrollee or the enrollee's treating health care
19 14 provider as the petitioner. The respondent shall be the
19 15 carrier or the organized delivery system. The petition shall
19 16 not name the independent review entity as a party. The
19 17 commissioner shall not be named as a respondent unless the
19 18 petitioner alleges action or inaction by the commissioner
19 19 under the standards articulated in section 17A.19, subsection
19 20 10. Allegations against the commissioner under section
19 21 17A.19, subsection 10, must be stated with particularity. The
19 22 commissioner may, upon motion, intervene in the judicial
19 23 review proceeding. The findings of fact by the independent
19 24 review entity conducting the review are conclusive and binding
19 25 on appeal.

19 26 3. The carrier or organized delivery system shall follow
19 27 and comply with the review decision of the independent review
19 28 entity conducting the review, or the decision of the court on
19 29 appeal. The carrier or organized delivery system and the
19 30 enrollee's treating health care provider shall not be subject
19 31 to any penalties, sanctions, or award of damages for following
19 32 and complying in good faith with the review decision of the
19 33 independent review entity conducting the review or decision of
19 34 the court on appeal.

19 35 4. The enrollee or the enrollee's treating health care
20 1 provider may bring an action in Polk county district court or
20 2 in the district court in the county in which the enrollee
20 3 resides to enforce the review decision of the independent
20 4 review entity conducting the review or the decision of the
20 5 court on appeal.

20 6 Sec. 34. Section 515.35, subsection 4, paragraph m, Code
20 7 2003, is amended by adding the following new unnumbered
20 8 paragraph:

20 9 NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes
20 10 an equity interest in the Iowa fund of funds as defined in
20 11 section 15E.62.

20 12 Sec. 35. Section 515.63, unnumbered paragraph 1, Code
20 13 2003, is amended to read as follows:

20 14 The president or the vice president and secretary of each
20 15 company organized or authorized to do business in the state
20 16 shall annually on or before the first day of March of each
20 17 year prepare under oath and file with the commissioner of
20 18 insurance or a depository designated by the commissioner a
20 19 full, true, and complete statement of the condition of such
20 20 company on the last day of the preceding year, which shall
20 21 exhibit the following items and facts:

20 22 Sec. 36. Section 515.73, Code 2003, is amended to read as
20 23 follows:

20 24 515.73 COMMISSIONER AS PROCESS AGENT.

20 25 Any ~~foreign~~ company desiring to transact the business of
20 26 insurance under this chapter, ~~by an agent or agents in the~~
20 27 ~~state,~~ shall file with the commissioner of insurance a power
20 28 of attorney and a signed written instrument, ~~duly signed and~~
20 29 ~~sealed,~~ authorizing such the commissioner to acknowledge
20 30 accept service of notice or process ~~for and in on~~ behalf of
20 31 such company ~~in this state, and consenting that service of~~
20 32 ~~notice or process may be made upon the said commissioner, and~~
20 33 ~~when so made that shall be taken and held as valid as if~~
20 34 served upon the company according to the laws of this or any
20 35 other state, and waiving all claim, or right, of error, ~~by~~
21 1 ~~reason of such acknowledgment of service due to the filing of~~
21 2 ~~the power of attorney and the agreement regarding service of~~
21 3 ~~notice or process.~~

21 4 Sec. 37. Section 515.92, Code 2003, is amended to read as
21 5 follows:

21 6 515.92 STATEMENT OF CAPITAL AND SURPLUS.

21 7 1. Every advertisement or public announcement, and every
21 8 sign, circular, or card issued or published by a foreign
21 9 company transacting the business of casualty insurance in the
21 10 state, or by an officer, agent, or representative ~~thereof,~~
21 11 that purports to disclose the company's financial standing,
21 12 shall exhibit the capital actually paid in cash, and the
21 13 amount of net surplus of assets over all its liabilities
21 14 actually held and available for the payment of losses by fire
21 15 and for the protection of holders of fire policies, and shall
21 16 also exhibit the amount of net surplus of assets over all
21 17 liabilities in the United States actually available for the
21 18 payment of losses by fire and held in the United States for
21 19 the protection of holders of fire policies in the United
21 20 States, including in such liabilities the fund reserved for
21 21 reinsurance of outstanding risks, ~~and the same. The amounts~~
21 22 stated for capital and net surplus shall correspond with the
21 23 latest verified statement made by the company or association

21 24 to the commissioner of insurance.

21 25 2. The company shall not write, place, or cause to be
21 26 written or placed, a policy or contract for insurance upon
21 27 property situated or located in this state except through ~~its~~
~~21 28 resident agent or agents a licensed producer authorized to do~~
21 29 ~~business in this state.~~

21 30 Sec. 38. Section 515.133, Code 2003, is amended to read as
21 31 follows:

21 32 515.133 EXAMINATION OF OFFICERS AND EMPLOYEES.

21 33 1. The commissioner of insurance is authorized to ~~summon~~
~~21 34 before the commissioner, issue a subpoena~~ for examination
21 35 under oath, any officer, agent, or employee of any ~~such~~
22 1 company suspected of violating any of the provisions of
22 2 section 515.131, ~~and, on,~~

22 3 2. ~~Upon the filing of a written, verified complaint to~~
22 4 ~~with the commissioner in writing by two or more residents of~~
22 5 ~~this state charging such alleging that a company under oath~~
~~22 6 upon their knowledge or belief with violating the provisions~~
~~22 7 of said has violated section 515.131, the commissioner shall~~
22 8 ~~summon issue a subpoena for examination under oath to any~~
22 9 officer, agent, or employee of ~~said the company before the~~
~~22 10 commissioner for examination under oath.~~

22 11 Sec. 39. Section 515.134, Code 2003, is amended to read as
22 12 follows:

22 13 515.134 REVOCATION OF AUTHORITY.

22 14 If upon ~~such~~ examination, and that of any other witness
22 15 produced and examined, the commissioner ~~shall determine~~
22 16 ~~determines that such a company is guilty of a violation of any~~
~~22 17 of the provisions of has violated section 515.131, or if any~~
22 18 ~~such officer, agent, or employee after being duly summoned~~
~~22 19 shall fail fails to appear or submit to examination after~~
22 20 ~~receiving a subpoena, the commissioner shall forthwith~~
22 21 ~~promptly~~ issue an order revoking the authority of ~~such the~~
22 22 company to transact business within this state, and ~~it the~~
~~22 23 company shall not thereafter~~ be permitted to do the business
22 24 of ~~fire~~ insurance in this state ~~at any time within for~~ one
22 25 year ~~therefrom.~~

22 26 Sec. 40. Section 515B.2, subsection 2, Code 2003, is
22 27 amended to read as follows:

22 28 2. "Claimant" means an insured making a first party claim
22 29 or any person instituting a liability claim against ~~the~~
~~22 30 insured of~~ an insolvent insurer. "Claimant" does not include
22 31 a person who is an affiliate of an insolvent insurer.

22 32 Sec. 41. Section 515B.8, subsection 1, Code 2003, is
22 33 amended to read as follows:

22 34 1. Any person recovering under this chapter shall be
22 35 deemed to have assigned the person's rights under the policy
23 1 to the association to the extent of the person's recovery from
23 2 the association. Every insured or claimant seeking the
23 3 protection of this chapter shall co-operate with the
23 4 association to the same extent as such person would have been
23 5 required to co-operate with the insolvent insurer. The
23 6 association shall have no cause of action against the insured
23 7 of the insolvent insurer for any sums it has paid out ~~except~~
~~23 8 causes of action the insolvent insurer would have had if the~~
~~23 9 sums had been paid by the insolvent insurer.~~

23 10 Sec. 42. Section 515B.9, subsection 1, Code 2003, is
23 11 amended by striking the subsection and inserting in lieu
23 12 thereof the following:

23 13 1. Any person having a claim under an insurance policy,
23 14 and the claim under such other policy alleges the same damages
23 15 or arises from the same facts, injury, or loss that gives rise
23 16 to a covered claim against the association, shall be required
23 17 to first exhaust all coverage provided by that policy, whether
23 18 such coverage is on a primary, excess, or pro rata basis and
23 19 any obligation of the association shall not be considered
23 20 other insurance.

23 21 Any amount payable on a covered claim shall be reduced by
23 22 the full applicable limits of such other insurance policy and
23 23 the association shall receive full credit for such limits or
23 24 where there are no applicable limits, the claim shall be
23 25 reduced by the total recovery.

23 26 a. A policy providing liability coverage to a person who
23 27 may be jointly and severally liable with, or a joint
23 28 tortfeasor with, the person covered under the policy of the
23 29 insolvent insurer shall be first exhausted before any claim is
23 30 made against the association and the association shall receive
23 31 credit for the same as provided above.

23 32 b. For purposes of this section, an insurance policy means
23 33 a policy issued by an insurance company, whether or not a
23 34 member insurer, which policy insures any of the types of risks

23 35 insured by an insurance company authorized to write insurance
24 1 under chapter 515, 516A, or 520, or comparable statutes of
24 2 another state, except those types of risks set forth in
24 3 chapters 508 and 514.

24 4 Sec. 43. Section 515B.16, Code 2003, is amended to read as
24 5 follows:

24 6 515B.16 ACTIONS AGAINST THE ASSOCIATION.

24 7 Any action against the association shall be brought against
24 8 the association in the association's own name. The Polk
24 9 county district court shall have exclusive jurisdiction and
24 10 venue of such actions. Service of the original notice in
24 11 actions against the association may be made on any officer of
24 12 the association or upon the commissioner of insurance on
24 13 behalf of the association. The commissioner shall promptly
24 14 transmit any notice so served upon the commissioner to the
24 15 association. Any action against the association shall be
24 16 commenced within three years after the date of the order of
24 17 liquidation.

24 18 Sec. 44. Section 515D.5, subsection 1, unnumbered
24 19 paragraph 1, Code 2003, is amended to read as follows:

24 20 Notwithstanding the provisions of sections 515.80 through
24 21 515.81A, a notice of cancellation of a policy shall not be
24 22 effective unless mailed or delivered by the insurer to the
24 23 named insured at least ~~twenty~~ thirty days prior to the
24 24 effective date of cancellation, or, where the cancellation is
24 25 for nonpayment of premium notwithstanding the provisions of
24 26 sections 515.80 and 515.81A at least ten days prior to the
24 27 date of cancellation. A post office department certificate of
24 28 mailing to the named insured at the address shown in the
24 29 policy shall be proof of receipt of such mailing. Unless the
24 30 reason accompanies the notice of cancellation, the notice
24 31 shall state that, upon written request of the named insured,
24 32 mailed or delivered to the insurer not less than fifteen days
24 33 prior to the date of cancellation, the insurer will state the
24 34 reason for cancellation, together with notification of the
24 35 right to a hearing before the commissioner within fifteen days
25 1 as provided in this chapter.

25 2 Sec. 45. Section 515D.10, Code 2003, is amended to read as
25 3 follows:

25 4 515D.10 HEARING BEFORE COMMISSIONER.

25 5 Any named insured who has received a statement of reason
25 6 for cancellation, or of reason for an insurer's intent not to
25 7 renew a policy, may, within fifteen days of the receipt or
25 8 delivery of a statement of reason, request a hearing before
25 9 the commissioner of insurance. The purpose of this hearing
25 10 shall be limited to establishing the existence of the proof or
25 11 evidence used by the insurer in its reason for cancellation or
25 12 intent not to renew. The burden of proof of the reason for
25 13 cancellation or intent not to renew shall be upon the insurer.
25 14 Other than the sharing of information required by this chapter
25 15 and the rules adopted pursuant to the provisions of this
25 16 chapter, the commissioner shall keep confidential the
25 17 information obtained from the insured or in the hearing
25 18 process, pursuant to section 505.8, subsection 6. The

25 19 commissioner of insurance shall adopt rules for carrying out
25 20 the provisions of this section.

25 21 Sec. 46. Section 515E.3, Code 2003, is amended by adding
25 22 the following new unnumbered paragraph:

25 23 NEW UNNUMBERED PARAGRAPH. A risk retention group organized
25 24 in this state shall file in the office of the commissioner a
25 25 power of attorney and an agreement in writing that service of
25 26 process in any action or proceeding against the society may be
25 27 served on the commissioner and shall be of the same legal
25 28 force and validity as if served upon the society, and that the
25 29 authority shall continue in force so long as any liability
25 30 remains outstanding in this state. Copies of the power of
25 31 attorney, certified by the commissioner, shall be deemed
25 32 sufficient evidence of the appointment and shall be admitted
25 33 in evidence with the same force and effect as the original.

25 34 Sec. 47. Section 518.23, subsection 2, paragraph a, Code
25 35 2003, is amended to read as follows:

26 1 a. Except as provided in paragraph "b", notice of
26 2 cancellation is not effective unless mailed or delivered by
26 3 the association to the named insured at least ~~twenty~~ thirty
26 4 days before the effective date of cancellation.

26 5 Sec. 48. Section 518A.29, subsection 2, paragraph a, Code
26 6 2003, is amended to read as follows:

26 7 a. Except as provided in paragraph "b", notice of
26 8 cancellation is not effective unless mailed or delivered by
26 9 the association to the named insured at least ~~twenty~~ thirty
26 10 days before the effective date of cancellation.

26 11 Sec. 49. Section 521C.3, subsection 4, paragraph b, Code
26 12 2003, is amended to read as follows:

26 13 b. ~~If the applicant for a A reinsurance intermediary~~
26 14 ~~license is a nonresident, such applicant, as a condition~~
26 15 ~~precedent to receiving or holding a license, shall designate~~
26 16 ~~the commissioner as agent for service of process, and also~~
26 17 ~~shall furnish the commissioner with the name and address of a~~
26 18 ~~resident of this state upon whom notices or orders of the~~
26 19 ~~commissioner or process affecting such nonresident reinsurance~~
26 20 ~~intermediary may be served. The licensee shall promptly~~
26 21 ~~notify the commissioner in writing of a change of the~~
26 22 ~~designated agent for service of process, and the change~~
26 23 ~~becomes effective upon acknowledgment by the commissioner.~~

26 24 Sec. 50. Section 523.7, Code 2003, is amended to read as
26 25 follows:

26 26 523.7 STATEMENT OF STOCK OWNERSHIP FILED WITH
26 27 COMMISSIONER.

26 28 1. Every person who is directly or indirectly the
26 29 beneficial owner of more than ten percent of any class of any
26 30 equity security of a domestic stock insurance company, or who
26 31 is a director or an officer of such company, shall file in the
26 32 office of the commissioner of insurance ~~within ten days after~~
26 33 ~~the person becomes such beneficial owner, director or officer~~
26 34 ~~as prescribed by rule a statement, in such a form as the~~
26 35 ~~commissioner may prescribe, of the amount of all equity~~
27 1 ~~securities of such the company of which the person is the~~
27 2 ~~beneficial owner, and within ten days after the close of each~~
27 3 ~~calendar month thereafter~~

27 4 2. ~~Within the time frame prescribed by rule, if there has~~
27 5 ~~been a change in such the ownership during such month a time~~
27 6 ~~period prescribed by rule, a person who is directly or~~
27 7 ~~indirectly the beneficial owner of more than ten percent of~~
27 8 ~~any class of any equity security of a domestic stock insurance~~
27 9 ~~company, or who is a director or an officer of such company,~~
27 10 ~~shall file in the office of the commissioner a statement, in~~
27 11 ~~such a form as the commissioner may prescribe, indicating the~~
27 12 ~~person's ownership at the close of the calendar month time~~
27 13 ~~period prescribed by rule and such any changes in the person's~~
27 14 ~~ownership as have occurred during such calendar month the time~~
27 15 ~~period prescribed by rule.~~

27 16 Sec. 51. Sections 511.30, 515.78, and 518A.43, Code 2003,
27 17 are repealed.

27 18 Sec. 52. INDIVIDUAL HEALTH INSURANCE TASK FORCE. The
27 19 insurance division of the department of commerce shall
27 20 establish an individual health insurance task force. The
27 21 individual health insurance task force shall conduct a study
27 22 to review the individual health insurance market reform under
27 23 chapter 513C and the Iowa comprehensive health insurance
27 24 association under chapter 514E. The study shall include
27 25 review of the following:

27 26 1. The premium rating system for the guaranteed basic and
27 27 standard plans regulated under chapter 513C and the
27 28 comprehensive health insurance plans under chapter 514E.

27 29 2. The availability of and qualifications for coverage
27 30 under the guaranteed basic and standard plans regulated under
27 31 chapter 513C and the comprehensive health insurance plans
27 32 under chapter 514E.

27 33 3. The cost-sharing and assessment mechanisms under
27 34 sections 513C.10 and 514E.2.

27 35 4. Any other matters as agreed upon by the task force
28 1 which affect the individual health insurance market.

28 2 The commissioner of insurance shall select the members of
28 3 the task force which shall include representatives from the
28 4 Iowa comprehensive health insurance association, the public
28 5 employee governing bodies subject to chapter 509A, and other
28 6 health insurance-related parties or experts as deemed
28 7 appropriate by the commissioner.

28 8 The commissioner shall submit a report from the task force
28 9 to the general assembly on or before January 15, 2004,
28 10 regarding the task force's findings and recommendations
28 11 including proposed legislation concerning individual health
28 12 insurance.

28 13 Sec. 53. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.
28 14 This section and the sections of this Act amending sections
28 15 513C.10, subsection 1, paragraph "a", and subsection 6, being
28 16 deemed of immediate importance, take effect upon enactment,
28 17 and apply retroactively to July 1, 1995.

28 18 DIVISION II

28 19 Sec. 54. NEW SECTION. 505A.1 INTERSTATE INSURANCE
28 20 PRODUCT REGULATION COMPACT.

28 21 The interstate insurance product regulation compact is

28 22 hereby entered into and enacted into law with all
28 23 jurisdictions legally joining therein, in the form
28 24 substantially as follows:

28 25 ARTICLE I == PURPOSES

28 26 The purposes of this compact are, through means of joint
28 27 and cooperative action among the compacting states:

28 28 1. To promote and protect the interest of consumers of
28 29 individual and group annuity, life insurance, disability
28 30 income and long-term care insurance products.

28 31 2. To develop uniform standards for insurance products
28 32 covered under this compact.

28 33 3. To establish a central clearinghouse to receive and
28 34 provide prompt review of insurance products covered under the
28 35 compact and, in certain cases, advertisements related thereto,
29 1 submitted by insurers authorized to do business in one or more
29 2 compacting states.

29 3 4. To give appropriate regulatory approval to those
29 4 product filings and advertisements satisfying the applicable
29 5 uniform standard.

29 6 5. To improve coordination of regulatory resources and
29 7 expertise between state insurance departments regarding the
29 8 setting of uniform standards and review of insurance products
29 9 covered under this compact.

29 10 6. To create the interstate insurance product regulation
29 11 commission.

29 12 7. To perform these and such other related functions as
29 13 may be consistent with the state regulation of the business of
29 14 insurance.

29 15 ARTICLE II == DEFINITIONS

29 16 For purposes of this compact, unless the context otherwise
29 17 requires:

29 18 1. "Advertisement" means any material designed to create
29 19 public interest in a product, or induce the public to
29 20 purchase, increase, modify, reinstate, borrow on, surrender,
29 21 replace or retain a policy, as more specifically defined in
29 22 the rules and operating procedures of the commission.

29 23 2. "Bylaws" means those bylaws established by the
29 24 commission for its governance, or for directing or controlling
29 25 the commission's actions or conduct.

29 26 3. "Commission" means the interstate insurance product
29 27 regulation commission established by this compact.

29 28 4. "Commissioner" means the chief insurance regulatory
29 29 official of a state including, but not limited to,
29 30 commissioner, superintendent, director, or administrator.

29 31 5. "Compacting state" means any state that has enacted
29 32 this compact legislation and that has not withdrawn pursuant
29 33 to article XIV, section 1, or been terminated pursuant to
29 34 article XIV, section 2.

29 35 6. "Domiciliary state" means the state in which an insurer
30 1 is incorporated or organized, or, in the case of an alien
30 2 insurer, its state of entry.

30 3 7. "Insurer" means any entity licensed by a state to issue
30 4 contracts of insurance for any of the lines of insurance
30 5 covered by this compact.

30 6 8. "Member" means the person chosen by a compacting state
30 7 as its representative to the commission, or the person's
30 8 designee.

30 9 9. "Noncompacting state" means any state which is not at
30 10 the time a compacting state.

30 11 10. "Operating procedures" means procedures promulgated by
30 12 the commission implementing a rule, uniform standard, or a
30 13 provision of this compact.

30 14 11. "Product" means the form of a policy or contract,
30 15 including any application, endorsement, or related form which
30 16 is attached to and made a part of the policy or contract, and
30 17 any evidence of coverage or certificate, for an individual or
30 18 group annuity, life insurance, disability income, or long-term
30 19 care insurance product that an insurer is authorized to issue.

30 20 12. "Rule" means a statement of general or particular
30 21 applicability and future effect promulgated by the commission,
30 22 including a uniform standard developed pursuant to article
30 23 VII, designed to implement, interpret, or prescribe law or
30 24 policy, or describing the organization, procedure, or practice
30 25 requirements of the commission, which shall have the force and
30 26 effect of law in the compacting states.

30 27 13. "State" means any state, district, or territory of the
30 28 United States of America.

30 29 14. "Third-party filer" means an entity that submits a
30 30 product filing to the commission on behalf of an insurer.

30 31 15. "Uniform standard" means a standard adopted by the
30 32 commission for a product line, pursuant to article VII, and

30 33 shall include all of the product requirements in aggregate,
30 34 provided that each uniform standard shall be construed,
30 35 whether express or implied, to prohibit the use of any
31 1 inconsistent, misleading, or ambiguous provisions in a
31 2 product, and the form of the product made available to the
31 3 public shall not be unfair, inequitable, or against public
31 4 policy as determined by the commission.

31 5 ARTICLE III == ESTABLISHMENT OF THE COMMISSION AND
31 6 VENUE

31 7 1. The compacting states hereby create and establish an
31 8 entity known as the interstate insurance product regulation
31 9 commission. Pursuant to article IV, the commission has the
31 10 power to develop uniform standards for product lines, receive
31 11 and provide prompt review of products filed therewith, and
31 12 give approval to those product filings satisfying applicable
31 13 uniform standards, provided it is not intended for the
31 14 commission to be the exclusive entity for receipt and review
31 15 of insurance product filings. Nothing herein shall prohibit
31 16 any insurer from filing its product in any state wherein the
31 17 insurer is licensed to conduct the business of insurance, and
31 18 any such filing shall be subject to the laws of the state
31 19 where filed.

31 20 2. The commission is a body corporate comprising each
31 21 compacting state.

31 22 3. The commission is a not-for-profit entity, separate and
31 23 distinct from the individual compacting states.

31 24 4. The commission is solely responsible for its
31 25 liabilities except as otherwise specifically provided in this
31 26 compact.

31 27 5. Venue is proper and judicial proceedings by or against
31 28 the commission shall be brought solely and exclusively in a
31 29 court of competent jurisdiction where the principal office of
31 30 the commission is located.

31 31 ARTICLE IV == POWERS OF THE COMMISSION

31 32 The commission shall have the following powers:

31 33 1. To promulgate rules, pursuant to article VII, which
31 34 shall have the force and effect of law and shall be binding in
31 35 the compacting states to the extent and in the manner provided
32 1 in this compact.

32 2 2. To exercise its rulemaking authority and establish
32 3 reasonable uniform standards for products covered under this
32 4 compact, and advertisement related thereto, which shall have
32 5 the force and effect of law and shall be binding in the
32 6 compacting states, but only for those products filed with the
32 7 commission, provided that a compacting state shall have the
32 8 right to opt out of such uniform standard pursuant to article
32 9 VII, to the extent and in the manner provided in this compact,
32 10 and, provided further, that any uniform standard established
32 11 by the commission for long-term care insurance products may
32 12 provide the same or greater protections for consumers as, but
32 13 shall not provide less than, those protections set forth in
32 14 the national association of insurance commissioners' long-term
32 15 care insurance model act and long-term care insurance model
32 16 regulation, respectively, adopted as of 2001. The commission
32 17 shall consider whether any subsequent amendments to the long-
32 18 term care insurance model act or long-term care insurance
32 19 model regulation adopted by the national association of
32 20 insurance commissioners require amending of the uniform
32 21 standards established by the commission for long-term care
32 22 insurance products.

32 23 3. To receive and review in an expeditious manner products
32 24 filed with the commission, and rate filings for disability
32 25 income and long-term care insurance products, and give
32 26 approval of those products and rate filings that satisfy the
32 27 applicable uniform standard, where such approval shall have
32 28 the force and effect of law, and be binding on the compacting
32 29 states to the extent and in the manner provided in the
32 30 compact.

32 31 4. To receive and review in an expeditious manner
32 32 advertisement relating to long-term care insurance products
32 33 for which uniform standards have been adopted by the
32 34 commission, and give approval to all advertisement that
32 35 satisfies the applicable uniform standard. For any product
33 1 covered under this compact, other than long-term care
33 2 insurance products, the commission shall have the authority to
33 3 require an insurer to submit all or any part of its
33 4 advertisement with respect to that product for review or
33 5 approval prior to use, if the commission determines that the
33 6 nature of the product is such that an advertisement of the
33 7 product could have the capacity or tendency to mislead the
33 8 public. The actions of the commission as provided in this

33 9 article shall have the force and effect of law and shall be
33 10 binding in the compacting states to the extent and in the
33 11 manner provided in this compact.

33 12 5. To exercise its rulemaking authority and designate
33 13 products and advertisement that may be subject to a self=
33 14 certification process without the need for prior approval by
33 15 the commission.

33 16 6. To promulgate operating procedures, pursuant to article
33 17 VII, which shall be binding in the compacting states to the
33 18 extent and in the manner provided in this compact.

33 19 7. To bring and prosecute legal proceedings or actions in
33 20 its name as the commission, provided that the standing of any
33 21 state insurance department to sue or be sued under applicable
33 22 law shall not be affected.

33 23 8. To issue subpoenas requiring the attendance and
33 24 testimony of witnesses and the production of evidence.

33 25 9. To establish and maintain offices.

33 26 10. To purchase and maintain insurance and bonds.

33 27 11. To borrow, accept, or contract for services of
33 28 personnel, including, but not limited to, employees of a
33 29 compacting state.

33 30 12. To hire employees, professionals, or specialists, and
33 31 elect or appoint officers, and to fix their compensation,
33 32 define their duties, and give them appropriate authority to
33 33 carry out the purposes of this compact, and determine their
33 34 qualifications, and to establish the commission's personnel
33 35 policies and programs relating to, among other things,
34 1 conflicts of interest, rates of compensation, and
34 2 qualifications of personnel.

34 3 13. To accept any and all appropriate donations and grants
34 4 of money, equipment, supplies, materials, and services, and to
34 5 receive, utilize, and dispose of the same, provided that at
34 6 all times the commission shall strive to avoid any appearance
34 7 of impropriety.

34 8 14. To lease, purchase, accept appropriate gifts or
34 9 donations of, or otherwise to own, hold, improve, or use, any
34 10 property, real, personal, or mixed, provided that at all times
34 11 the commission shall strive to avoid any appearance of
34 12 impropriety.

34 13 15. To sell, convey, mortgage, pledge, lease, exchange,
34 14 abandon, or otherwise dispose of any property, real, personal,
34 15 or mixed.

34 16 16. To remit filing fees to compacting states as may be
34 17 set forth in the bylaws, rules, or operating procedures.

34 18 17. To enforce compliance by compacting states with rules,
34 19 uniform standards, operating procedures, and bylaws.

34 20 18. To provide for dispute resolution among compacting
34 21 states.

34 22 19. To advise compacting states on issues relating to
34 23 insurers domiciled or doing business in noncompacting
34 24 jurisdictions, consistent with the purposes of this compact.

34 25 20. To provide advice and training to those personnel in
34 26 state insurance departments responsible for product review,
34 27 and to be a resource for state insurance departments.

34 28 21. To establish a budget and make expenditures.

34 29 22. To borrow money.

34 30 23. To appoint committees, including advisory committees
34 31 comprising members, state insurance regulators, state
34 32 legislators or their representatives, insurance industry and
34 33 consumer representatives, and such other interested persons as
34 34 may be designated in the bylaws.

34 35 24. To provide and receive information from, and to
35 1 cooperate with, law enforcement agencies.

35 2 25. To adopt and use a corporate seal.

35 3 26. To perform such other functions as may be necessary or
35 4 appropriate to achieve the purposes of this compact consistent
35 5 with the state regulation of the business of insurance.

35 6 ARTICLE V == ORGANIZATION OF THE COMMISSION

35 7 1. MEMBERSHIP, VOTING, AND BYLAWS.

35 8 a. Each compacting state shall have and be limited to one
35 9 member. Each member shall be qualified to serve in that
35 10 capacity pursuant to applicable law of the compacting state.
35 11 Any member may be removed or suspended from office as provided
35 12 by the law of the state from which the member is appointed.
35 13 Any vacancy occurring in the commission shall be filled in
35 14 accordance with the laws of the compacting state wherein the
35 15 vacancy exists. Nothing herein shall be construed to affect
35 16 the manner in which a compacting state determines the election
35 17 or appointment and qualification of its own commissioner.

35 18 b. Each member shall be entitled to one vote and shall
35 19 have an opportunity to participate in the governance of the

35 20 commission in accordance with the bylaws. Notwithstanding any
35 21 provision herein to the contrary, no action of the commission
35 22 with respect to the promulgation of a uniform standard shall
35 23 be effective unless two-thirds of the members vote in favor
35 24 thereof.

35 25 c. The commission shall, by a majority of the members,
35 26 prescribe bylaws to govern its conduct as may be necessary or
35 27 appropriate to carry out the purposes, and exercise the
35 28 powers, of the compact, including, but not limited to:

35 29 (1) Establishing the fiscal year of the commission.

35 30 (2) Providing reasonable procedures for appointing and
35 31 electing members, as well as holding meetings, of the
35 32 management committee.

35 33 (3) Providing reasonable standards and procedures:

35 34 (a) For the establishment of other committees.

35 35 (b) Governing any general or specific delegation of any
36 1 authority or function of the commission.

36 2 (4) Providing reasonable procedures for calling and
36 3 conducting meetings of the commission, and ensuring reasonable
36 4 notice of each such meeting.

36 5 (5) Establishing the titles, duties, and authority, and
36 6 reasonable procedures for the election of the officers of the
36 7 commission.

36 8 (6) Providing reasonable standards and procedures for the
36 9 establishment of the personnel policies and programs of the
36 10 commission. Notwithstanding any civil service or other
36 11 similar laws of any compacting state, the bylaws shall
36 12 exclusively govern the personnel policies and programs of the
36 13 commission.

36 14 (7) Providing a mechanism for winding up the operations of
36 15 the commission and the equitable disposition of any surplus
36 16 funds that may exist after the termination of this compact
36 17 after the payment or reserving of all of its debts and
36 18 obligations.

36 19 2. MANAGEMENT COMMITTEE, OFFICERS, AND PERSONNEL.

36 20 a. A management committee comprising no more than fourteen
36 21 members shall be established as follows:

36 22 (1) One member from each of the six compacting states with
36 23 the largest premium volume for individual and group annuities,
36 24 life, disability income, and long-term care insurance
36 25 products, determined from the records of the national
36 26 association of insurance commissioners for the prior year.

36 27 (2) Four members from those compacting states with at
36 28 least two percent of the market based on the premium volume
36 29 described in subparagraph (1), other than the six compacting
36 30 states with the largest premium volume, selected on a rotating
36 31 basis as provided in the bylaws.

36 32 (3) Four members from those compacting states with less
36 33 than two percent of the market, based on the premium volume
36 34 described subparagraph (1), with one selected from each of the
36 35 four zone regions of the national association of insurance
37 1 commissioners as provided in the bylaws.

37 2 b. The management committee shall have such authority and
37 3 duties as may be set forth in the bylaws, including but not
37 4 limited to:

37 5 (1) Managing the affairs of the commission in a manner
37 6 consistent with the bylaws and purposes of the commission.

37 7 (2) Establishing and overseeing an organizational
37 8 structure within, and appropriate procedures for, the
37 9 commission to provide for the creation of uniform standards
37 10 and other rules, receipt and review of product filings,
37 11 administrative and technical support functions, review of
37 12 decisions regarding the disapproval of a product filing, and
37 13 the review of elections made by a compacting state to opt out
37 14 of a uniform standard, provided that a uniform standard shall
37 15 not be submitted to the compacting states for adoption unless
37 16 approved by two-thirds of the members of the management
37 17 committee.

37 18 (3) Overseeing the offices of the commission.

37 19 (4) Planning, implementing, and coordinating
37 20 communications and activities with other state, federal, and
37 21 local government organizations in order to advance the goals
37 22 of the commission.

37 23 c. The commission shall elect annually officers from the
37 24 management committee, with each having such authority and
37 25 duties, as may be specified in the bylaws.

37 26 d. The management committee may, subject to the approval
37 27 of the commission, appoint or retain an executive director for
37 28 such period, upon such terms and conditions and for such
37 29 compensation as the commission may deem appropriate. The
37 30 executive director shall serve as secretary to the commission,

37 31 but shall not be a member of the commission. The executive
37 32 director shall hire and supervise such other staff as may be
37 33 authorized by the commission.

37 34 3. LEGISLATIVE AND ADVISORY COMMITTEES.

37 35 a. A legislative committee comprising state legislators or
38 1 their designees shall be established to monitor the operations
38 2 of, and make recommendations to, the commission, including the
38 3 management committee, provided that the manner of selection
38 4 and term of any legislative committee member shall be as set
38 5 forth in the bylaws. Prior to the adoption by the commission
38 6 of any uniform standard, revision to the bylaws, annual
38 7 budget, or other significant matter as may be provided in the
38 8 bylaws, the management committee shall consult with and report
38 9 to the legislative committee.

38 10 b. The commission shall establish two advisory committees,
38 11 one of which shall comprise consumer representatives
38 12 independent of the insurance industry, and the other
38 13 comprising insurance industry representatives.

38 14 c. The commission may establish additional advisory
38 15 committees as its bylaws may provide for the carrying out of
38 16 its functions.

38 17 4. CORPORATE RECORDS OF THE COMMISSION. The commission
38 18 shall maintain its corporate books and records in accordance
38 19 with the bylaws.

38 20 5. QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.

38 21 a. The members, officers, executive director, employees,
38 22 and representatives of the commission shall be immune from
38 23 suit and liability, either personally or in their official
38 24 capacity, for any claim for damage to, or loss of, property,
38 25 personal injury, or other civil liability caused by or arising
38 26 out of any actual or alleged act, error, or omission that
38 27 occurred, or that the person against whom the claim is made
38 28 had a reasonable basis for believing occurred, within the
38 29 scope of commission employment, duties, or responsibilities,
38 30 provided that nothing in this paragraph shall be construed to
38 31 protect any such person from suit or liability for any damage,
38 32 loss, injury, or liability caused by the intentional or
38 33 willful and wanton misconduct of that person.

38 34 b. The commission shall defend any member, officer,
38 35 executive director, employee, or representative of the
39 1 commission in any civil action seeking to impose liability
39 2 arising out of any actual or alleged act, error, or omission
39 3 that occurred within the scope of commission employment,
39 4 duties, or responsibilities, or that the person against whom
39 5 the claim is made had a reasonable basis for believing
39 6 occurred within the scope of commission employment, duties, or
39 7 responsibilities, provided that nothing herein shall be
39 8 construed to prohibit that person from retaining the person's
39 9 own counsel; and, provided further, that the actual or alleged
39 10 act, error, or omission did not result from that person's
39 11 intentional or willful and wanton misconduct.

39 12 c. The commission shall indemnify and hold harmless any
39 13 member, officer, executive director, employee, or
39 14 representative of the commission for the amount of any
39 15 settlement or judgment obtained against that person arising
39 16 out of any actual or alleged act, error, or omission that
39 17 occurred within the scope of commission employment, duties, or
39 18 responsibilities, or that such person had a reasonable basis
39 19 for believing occurred within the scope of commission
39 20 employment, duties, or responsibilities, provided that the
39 21 actual or alleged act, error, or omission did not result from
39 22 the intentional or willful and wanton misconduct of that
39 23 person.

39 24 ARTICLE VI == MEETINGS AND ACTS OF THE COMMISSION

39 25 1. The commission shall meet and take such actions as are
39 26 consistent with the provisions of this compact and the bylaws.

39 27 2. Each member of the commission shall have the right and
39 28 power to cast a vote to which that compacting state is
39 29 entitled and to participate in the business and affairs of the
39 30 commission. A member shall vote in person or by such other
39 31 means as provided in the bylaws. The bylaws may provide for
39 32 members' participation in meetings by telephone or other means
39 33 of communication.

39 34 3. The commission shall meet at least once during each
39 35 calendar year. Additional meetings shall be held as set forth
40 1 in the bylaws.

40 2 ARTICLE VII == RULES AND OPERATING PROCEDURES ==

40 3 RULEMAKING FUNCTIONS OF THE COMMISSION AND

40 4 OPTING OUT OF UNIFORM STANDARDS

40 5 1. RULEMAKING AUTHORITY. The commission shall promulgate
40 6 reasonable rules, including uniform standards and operating

40 7 procedures, in order to effectively and efficiently achieve
40 8 the purposes of this compact. Notwithstanding the foregoing,
40 9 in the event the commission exercises its rulemaking authority
40 10 in a manner that is beyond the scope of the purposes of this
40 11 compact, or the powers granted hereunder, such an action by
40 12 the commission shall be invalid and have no force and effect.

40 13 2. RULEMAKING PROCEDURE. Rules and operating procedures
40 14 shall be made pursuant to a rulemaking process that conforms
40 15 to the model state administrative procedure act, as may be
40 16 appropriate to the operations of the commission. Before the
40 17 commission adopts a uniform standard, the commission shall
40 18 give written notice to the relevant state legislative
40 19 committee or committees in each compacting state responsible
40 20 for insurance issues of its intention to adopt the uniform
40 21 standard.

40 22 3. EFFECTIVE DATE AND OPT OUT OF A UNIFORM STANDARD. A
40 23 uniform standard shall become effective ninety days after its
40 24 promulgation by the commission or such later date as the
40 25 commission may determine, provided, however, that a compacting
40 26 state may opt out of a uniform standard as provided in this
40 27 article. "Opt out" means any action by a compacting state to
40 28 decline to adopt or participate in a promulgated uniform
40 29 standard. All other rules and operating procedures, and
40 30 amendments thereto, shall become effective as of the date
40 31 specified in each rule, operating procedure, or amendment.

40 32 4. OPT=OUT PROCEDURE. A compacting state may opt out of a
40 33 uniform standard, either by legislation or regulation duly
40 34 promulgated by the insurance department under the compacting
40 35 state's administrative procedure act. If a compacting state
41 1 elects to opt out of a uniform standard by regulation, it must
41 2 do all of the following:

41 3 a. Give written notice to the commission no later than ten
41 4 business days after the uniform standard is promulgated, or at
41 5 the time the state becomes a compacting state.

41 6 b. Find that the uniform standard does not provide
41 7 reasonable protections to the citizens of the state, given the
41 8 conditions in the state.

41 9 The commissioner shall make specific findings of fact and
41 10 conclusions of law, based on a preponderance of the evidence,
41 11 detailing the conditions in the state which warrant a
41 12 departure from the uniform standard and determining that the
41 13 uniform standard would not reasonably protect the citizens of
41 14 the state. The commissioner must consider and balance the
41 15 following factors and find that the conditions in the state
41 16 and needs of the citizens of the state outweigh both of the
41 17 following:

41 18 (1) The intent of the legislature to participate in, and
41 19 the benefits of, an interstate agreement to establish national
41 20 uniform consumer protections for the products subject to this
41 21 compact.

41 22 (2) The presumption that a uniform standard adopted by the
41 23 commission provides reasonable protections to consumers of the
41 24 relevant product.

41 25 Notwithstanding the foregoing, a compacting state may, at
41 26 the time of its enactment of this compact, prospectively opt
41 27 out of all uniform standards involving long-term care
41 28 insurance products by expressly providing for such opt out in
41 29 the enacted compact, and such an opt out shall not be treated
41 30 as a material variance in the offer or acceptance of any state
41 31 to participate in this compact. Such an opt out shall be
41 32 effective at the time of enactment of this compact by the
41 33 compacting state and shall apply to all existing uniform
41 34 standards involving long-term care insurance products and
41 35 those subsequently promulgated.

42 1 5. EFFECT OF OPT OUT. If a compacting state elects to opt
42 2 out of a uniform standard, the uniform standard shall remain
42 3 applicable in the compacting state electing to opt out until
42 4 such time the opt-out legislation is enacted into law or the
42 5 regulation opting out becomes effective.

42 6 Once the opt out of a uniform standard by a compacting
42 7 state becomes effective, as provided under the laws of that
42 8 state, the uniform standard shall have no further force and
42 9 effect in that state unless and until the legislation or
42 10 regulation implementing the opt out is repealed or otherwise
42 11 becomes ineffective under the laws of the state. If a
42 12 compacting state opts out of a uniform standard after the
42 13 uniform standard has been made effective in that state, the
42 14 opt out shall have the same prospective effect as provided
42 15 under article XIV for withdrawals.

42 16 ARTICLE VIII == COMMISSION RECORDS AND ENFORCEMENT

42 17 1. The commission shall promulgate rules to establish

42 18 conditions and procedures under which the commission shall
42 19 make its information and official records available to the
42 20 public for inspection or copying. The commission may
42 21 promulgate additional rules under which it may make available
42 22 to federal and state agencies, including law enforcement
42 23 agencies, records, and information otherwise exempt from
42 24 disclosure, and may enter into agreements with such agencies
42 25 to receive or exchange information or records subject to
42 26 nondisclosure and confidentiality provisions.

42 27 2. Except as to privileged records, data, and information,
42 28 the laws of any compacting state pertaining to confidentiality
42 29 or nondisclosure shall not relieve any compacting state
42 30 commissioner of the duty to disclose any relevant records,
42 31 data, or information to the commission, provided that
42 32 disclosure to the commission shall not be deemed to waive or
42 33 otherwise affect any confidentiality requirement, and further
42 34 provided that, except as otherwise expressly provided in this
42 35 compact, the commission shall not be subject to the compacting
43 1 state's laws pertaining to confidentiality and nondisclosure
43 2 with respect to records, data, and information in its
43 3 possession. Confidential information of the commission shall
43 4 remain confidential after such information is provided to any
43 5 commissioner.

43 6 3. The commission shall monitor compacting states for
43 7 compliance with duly adopted bylaws, rules, including uniform
43 8 standards, and operating procedures. The commission shall
43 9 notify any noncomplying compacting state in writing of its
43 10 noncompliance with commission bylaws, rules, or operating
43 11 procedures. If a noncomplying compacting state fails to
43 12 remedy its noncompliance within the time specified in the
43 13 notice of noncompliance, the compacting state shall be deemed
43 14 to be in default as set forth in article XIV.

43 15 4. The commissioner of any state in which an insurer is
43 16 authorized to do business, or is conducting the business of
43 17 insurance, shall continue to exercise the commissioner's
43 18 authority to oversee the market regulation of the activities
43 19 of the insurer in accordance with the provisions of the
43 20 state's law. The commissioner's enforcement of compliance
43 21 with the compact is governed by the following provisions:

43 22 a. With respect to the commissioner's market regulation of
43 23 a product or advertisement that is approved or certified to
43 24 the commission, no activity of an insurer shall constitute a
43 25 violation of the provisions, standards, or requirements of
43 26 this compact except upon a final order of the commission,
43 27 issued at the request of a commissioner after prior notice to
43 28 the insurer and an opportunity for hearing before the
43 29 commission.

43 30 b. Before a commissioner may bring an action for violation
43 31 of any provision, standard, or requirement of this compact
43 32 relating to the use of an advertisement not approved or
43 33 certified to the commission, the commission, or an authorized
43 34 commission officer or employee, must authorize the action.
43 35 However, authorization pursuant to this paragraph does not
44 1 require notice to the insurer, opportunity for hearing, or
44 2 disclosure of requests for authorization or records of the
44 3 commission's action on such requests.

44 4 5. STAY OF UNIFORM STANDARD. If a compacting state has
44 5 formally initiated the process of opting out of a uniform
44 6 standard by regulation, and while the regulatory opt out is
44 7 pending, the compacting state may petition the commission, at
44 8 least fifteen days before the effective date of the uniform
44 9 standard, to stay the effectiveness of the uniform standard in
44 10 that state. The commission may grant a stay if it determines
44 11 the regulatory opt out is being pursued in a reasonable manner
44 12 and there is a likelihood of success. If a stay is granted or
44 13 extended by the commission, the stay or extension thereof may
44 14 postpone the effective date by up to ninety days, unless
44 15 affirmatively extended by the commission, provided a stay may
44 16 not be permitted to remain in effect for more than one year
44 17 unless the compacting state can show extraordinary
44 18 circumstances which warrant a continuance of the stay,
44 19 including, but not limited to, the existence of a legal
44 20 challenge which prevents the compacting state from opting out.
44 21 A stay may be terminated by the commission upon notice that
44 22 the rulemaking process has been terminated.

44 23 6. Not later than thirty days after a rule or operating
44 24 procedure is adopted, any person may file a petition for
44 25 judicial review of the rule or operating procedure, provided
44 26 that the filing of such a petition shall not stay or otherwise
44 27 prevent the rule or operating procedure from becoming
44 28 effective unless the court finds that the petitioner has a

44 29 substantial likelihood of success. The court shall give
44 30 deference to the actions of the commission consistent with
44 31 applicable law and shall not find the rule or operating
44 32 procedure to be unlawful if the rule or operating procedure
44 33 represents a reasonable exercise of the commission's
44 34 authority.

44 35 ARTICLE IX == DISPUTE RESOLUTION

45 1 The commission shall attempt, upon the request of a member,
45 2 to resolve any disputes or other issues which are subject to
45 3 this compact and which may arise between two or more
45 4 compacting states, or between compacting states and
45 5 noncompacting states, and the commission shall promulgate an
45 6 operating procedure providing for resolution of such disputes.

45 7 ARTICLE X == PRODUCT FILING AND APPROVAL

45 8 1. Insurers and third-party filers seeking to have a
45 9 product approved by the commission shall file the product
45 10 with, and pay applicable filing fees to, the commission.
45 11 Nothing in this compact shall be construed to restrict or
45 12 otherwise prevent an insurer from filing its product with the
45 13 insurance department in any state wherein the insurer is
45 14 licensed to conduct the business of insurance, and such filing
45 15 shall be subject to the laws of the states where filed.

45 16 2. The commission shall establish appropriate filing and
45 17 review processes and procedures pursuant to commission rules
45 18 and operating procedures. Notwithstanding any provision
45 19 herein to the contrary, the commission shall promulgate rules
45 20 to establish conditions and procedures under which the
45 21 commission will provide public access to product filing
45 22 information. In establishing such rules, the commission shall
45 23 consider the interests of the public in having access to such
45 24 information, as well as protection of personal medical and
45 25 financial information and trade secrets, that may be contained
45 26 in a product filing or supporting information.

45 27 3. Any product approved by the commission may be sold or
45 28 otherwise issued in those compacting states in which the
45 29 insurer is legally authorized to do business.

45 30 ARTICLE XI == REVIEW OF COMMISSION DECISIONS

45 31 REGARDING FILINGS

45 32 1. Not later than thirty days after the commission has
45 33 given notice of a disapproved product or advertisement filed
45 34 with the commission, the insurer or third-party filer whose
45 35 filing was disapproved may appeal the determination to a
46 1 review panel appointed by the commission. The commission
46 2 shall adopt rules to establish procedures for appointing such
46 3 review panels and provide for notice and hearing. The
46 4 decision of the review panel shall be the final action of the
46 5 commission and not subject to review by any court.
46 6 Notwithstanding the foregoing, an allegation that the
46 7 commission, in disapproving a product or advertisement filed
46 8 with the commission, acted arbitrarily, capriciously, or in a
46 9 manner that is an abuse of discretion or otherwise not in
46 10 accordance with the law, is subject to judicial review in
46 11 accordance with article III, section 5.

46 12 2. The commission shall have authority to monitor, review,
46 13 and reconsider products and advertisement subsequent to their
46 14 filing or approval upon a finding that the product does not
46 15 meet the relevant uniform standard. Where appropriate, the
46 16 commission may withdraw or modify its approval after proper
46 17 notice and hearing, subject to the appeal process in section
46 18 1.

46 19 ARTICLE XII == FINANCE

46 20 1. The commission shall pay or provide for the payment of
46 21 the reasonable expenses of its establishment and organization.
46 22 To fund the cost of its initial operations, the commission may
46 23 accept contributions and other forms of funding from the
46 24 national association of insurance commissioners, compacting
46 25 states, and other sources. Contributions and other forms of
46 26 funding from other sources shall be of such a nature that the
46 27 independence of the commission concerning the performance of
46 28 its duties shall not be compromised.

46 29 2. The commission shall collect a filing fee from each
46 30 insurer and third-party filer filing a product with the
46 31 commission to cover the cost of the operations and activities
46 32 of the commission and its staff in a total amount sufficient
46 33 to cover the commission's annual budget.

46 34 3. The commission's budget for a fiscal year shall not be
46 35 approved until it has been subject to notice and comment as
47 1 set forth in article VII.

47 2 4. The commission shall be exempt from all taxation in and
47 3 by the compacting states.

47 4 5. The commission shall not pledge the credit of any

47 5 compacting state, except by and with the appropriate legal
47 6 authority of that compacting state.

47 7 6. The commission shall keep complete and accurate
47 8 accounts of all its internal receipts, including grants and
47 9 donations, and disbursements of all funds under its control.
47 10 The internal financial accounts of the commission shall be
47 11 subject to the accounting procedures established under its
47 12 bylaws. The financial accounts and reports, including the
47 13 system of internal controls and procedures of the commission,
47 14 shall be audited annually by an independent certified public
47 15 accountant. Upon the determination of the commission, but no
47 16 less frequently than every three years, the review of the
47 17 independent auditor shall include a management and performance
47 18 audit of the commission. The commission shall make an annual
47 19 report to the governor and legislature of the compacting
47 20 states, which shall include a report of the independent audit.
47 21 The commission's internal accounts, any work papers related to
47 22 any internal audit, and any work papers related to the
47 23 independent audit, shall be confidential, provided that such
47 24 materials may be shared with the commissioner of any
47 25 compacting state and shall remain confidential pursuant to
47 26 article VII.

47 27 7. A compacting state shall not have any claim to or
47 28 ownership of any property held by or vested in the commission
47 29 or to any commission funds held pursuant to the provisions of
47 30 this compact.

47 31 ARTICLE XIII == COMPACTING STATES,
47 32 EFFECTIVE DATE, AND AMENDMENT

47 33 1. Any state is eligible to become a compacting state.

47 34 2. This compact shall become effective and binding upon
47 35 legislative enactment of this compact into law by two
48 1 compacting states, provided the commission shall become
48 2 effective for purposes of adopting uniform standards for
48 3 reviewing, and giving approval or disapproval of, products
48 4 filed with the commission that satisfy applicable uniform
48 5 standards only after twenty-six states are compacting states
48 6 or, alternatively, by states representing greater than forty
48 7 percent of the premium volume for life insurance, annuity,
48 8 disability income, and long-term care insurance products,
48 9 based on records of the national association of insurance
48 10 commissioners for the prior year. Thereafter, it shall become
48 11 effective and binding as to any other compacting state upon
48 12 enactment of this compact into law by that state.

48 13 3. Amendments to this compact may be proposed by the
48 14 commission for enactment by the compacting states. An
48 15 amendment shall not become effective and binding upon the
48 16 commission and the compacting states unless and until all
48 17 compacting states enact the amendment into law.

48 18 ARTICLE XIV == WITHDRAWAL, DEFAULT, AND TERMINATION

48 19 1. WITHDRAWAL.

48 20 a. Once effective, this compact shall continue in force
48 21 and remain binding upon each and every compacting state,
48 22 provided that a compacting state may withdraw from this
48 23 compact by enacting a statute specifically repealing the
48 24 statute which enacted the compact into law.

48 25 b. The effective date of withdrawal is the effective date
48 26 of the repealing statute. However, the withdrawal shall not
48 27 apply to any product filings approved or self-certified, or
48 28 any advertisement of such products, on the date the repealing
48 29 statute becomes effective, except by mutual agreement of the
48 30 commission and the withdrawing state unless the approval is
48 31 rescinded by the withdrawing state as provided in paragraph
48 32 "e".

48 33 c. The commissioner of the withdrawing state shall
48 34 immediately notify the management committee in writing upon
48 35 the introduction of legislation repealing this compact in the
49 1 withdrawing state.

49 2 d. The commission shall notify the other compacting states
49 3 of the introduction of such legislation within ten days after
49 4 its receipt of notice.

49 5 e. The withdrawing state is responsible for all
49 6 obligations, duties, and liabilities incurred through the
49 7 effective date of withdrawal, including any obligations, the
49 8 performance of which extend beyond the effective date of
49 9 withdrawal, except to the extent those obligations may have
49 10 been released or relinquished by mutual agreement of the
49 11 commission and the withdrawing state. The commission's
49 12 approval of products and advertisement prior to the effective
49 13 date of withdrawal shall continue to be effective and be given
49 14 full force and effect in the withdrawing state, unless
49 15 formally rescinded by the withdrawing state in the same manner

49 16 as provided by the laws of the withdrawing state for the
49 17 prospective disapproval of products or advertisement
49 18 previously approved under state law.

49 19 f. Reinstatement following withdrawal of any compacting
49 20 state shall occur upon the effective date of the withdrawing
49 21 state reenacting the compact.

49 22 2. DEFAULT.

49 23 a. If the commission determines that any compacting state
49 24 has at any time defaulted in the performance of any of its
49 25 obligations or responsibilities under this compact, the bylaws
49 26 or duly promulgated rules or operating procedures, then, after
49 27 notice and hearing as set forth in the bylaws, all rights,
49 28 privileges, and benefits conferred by this compact on the
49 29 defaulting state shall be suspended from the effective date of
49 30 default as fixed by the commission. The grounds for default
49 31 include, but are not limited to, failure of a compacting state
49 32 to perform its obligations or responsibilities, and any other
49 33 grounds designated in commission rules. The commission shall
49 34 immediately notify the defaulting state in writing of the
49 35 defaulting state's suspension, pending a cure of the default.

50 1 The commission shall stipulate the conditions and the time
50 2 period within which the defaulting state must cure its
50 3 default. If the defaulting state fails to cure the default
50 4 within the time period specified by the commission, the
50 5 defaulting state shall be terminated from this compact and all
50 6 rights, privileges, and benefits conferred by this compact
50 7 shall be terminated from the effective date of termination.

50 8 b. Product approvals by the commission or product self=
50 9 certifications, or any advertisement in connection with such
50 10 product, that are in force on the effective date of
50 11 termination shall remain in force in the defaulting state in
50 12 the same manner as if the defaulting state had withdrawn
50 13 voluntarily pursuant to section 1.

50 14 c. Reinstatement following termination of any compacting
50 15 state requires a reenactment of this compact.

50 16 3. DISSOLUTION OF COMPACT.

50 17 a. This compact dissolves effective upon the date of the
50 18 withdrawal or default of the compacting state which reduces
50 19 membership in this compact to one compacting state.

50 20 b. Upon the dissolution of this compact, this compact
50 21 becomes null and void and shall be of no further force or
50 22 effect, and the business and affairs of the commission shall
50 23 be wound up and any surplus funds shall be distributed in
50 24 accordance with the bylaws.

50 25 ARTICLE XV == SEVERABILITY AND CONSTRUCTION

50 26 1. The provisions of this compact shall be severable, and
50 27 if any phrase, clause, sentence, or provision is deemed
50 28 unenforceable, the remaining provisions of this compact shall
50 29 be enforceable.

50 30 2. The provisions of this compact shall be liberally
50 31 construed to effectuate its purposes.

50 32 ARTICLE XVI == BINDING EFFECT OF COMPACT AND OTHER
50 33 LAWS

50 34 1. OTHER LAWS.

50 35 a. Nothing herein prevents the enforcement of any other
51 1 law of a compacting state, except as provided in paragraph
51 2 "b".

51 3 b. For any product approved or certified to the
51 4 commission, the rules, uniform standards, and any other
51 5 requirements of the commission shall constitute the exclusive
51 6 provisions applicable to the content, approval, and
51 7 certification of such products. For advertisement that is
51 8 subject to the commission's authority, any rule, uniform
51 9 standard, or other requirement of the commission which governs
51 10 the content of the advertisement shall constitute the
51 11 exclusive provision that a commissioner may apply to the
51 12 content of the advertisement. Notwithstanding the foregoing,
51 13 action taken by the commission shall not abrogate or restrict:

51 14 (1) The access of any person, including the attorney
51 15 general, to state courts.

51 16 (2) Remedies available under state law related to breach
51 17 of contract, tort, general consumer protection laws, or
51 18 general consumer protection regulations that apply to the sale
51 19 or advertisement of the product or other laws not specifically
51 20 directed to the content of the product.

51 21 (3) State law relating to the construction of insurance
51 22 contracts.

51 23 c. All insurance products filed with individual states
51 24 shall be subject to the laws of those states.

51 25 2. BINDING EFFECT OF THIS COMPACT.

51 26 a. All lawful actions of the commission, including all

51 27 rules and operating procedures adopted by the commission, are
51 28 binding upon the compacting states.

51 29 b. All agreements between the commission and the
51 30 compacting states are binding in accordance with their terms.

51 31 c. Upon the request of a party to a conflict over the
51 32 meaning or interpretation of commission actions, and upon a
51 33 majority vote of the compacting states, the commission may
51 34 issue advisory opinions regarding the meaning or
51 35 interpretation in dispute.

52 1 d. In the event any provision of this compact exceeds the
52 2 constitutional limits imposed on the legislature of any
52 3 compacting state, the obligations, duties, powers, or
52 4 jurisdiction sought to be conferred by that provision upon the
52 5 commission shall be ineffective as to that compacting state,
52 6 and those obligations, duties, powers, or jurisdiction shall
52 7 remain in the compacting state and shall be exercised by the
52 8 agency thereof to which those obligations, duties, powers, or
52 9 jurisdiction are delegated by law in effect at the time this
52 10 compact becomes effective.

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CHRISTOPHER C. RANTS
Speaker of the House

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MARY E. KRAMER
President of the Senate

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52 22 I hereby certify that this bill originated in the House and
52 23 is known as House File 647, Eightieth General Assembly.

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MARGARET THOMSON
Chief Clerk of the House

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Approved _____, 2003

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THOMAS J. VILSACK
Governor